

REMARKS

Due to the election made in response to a previous Restriction Requirement, claims 1-8, 10-13, 18-21, 22, 23, 26, 27-30 and 35-45 are pending in the present application.

The Examiner rejected claims 1-5 and 26 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,154,522 (*Cummings*). Applicant respectfully traverses this rejection.

Applicants respectfully assert that the Examiner misapplied the disclosure of *Cummings* to read upon all of the elements of claims 1 and 26 of the present invention. As recited in claim 1, an optical signal is sent from a first apparatus to a second apparatus and a reflection of the optical signal is received from the second apparatus. Based upon its reflection, the position of one of the apparatuses relative to the other apparatus is adjusted. The Examiner cited *Cummings*, which discloses a radiant beam emitter that emits beams such as x-ray signals, which is generally a plane wave. *Cummings* discloses a target object 112 that comprises a light emitter 110 to emit a beam of light 118. A reflector 114 is positioned on the radiant beam emitter 116. See column 4, lines 40-58. The reflector 114 is positioned on the radiant beam emitter 116 in relation to a position such that the radiant beam would strike the reflector at the center point. *Id.* *Cummings* discloses that the target object 112 and the radiant beam emitter are positioned such that the beam of light 118 strikes the reflector 114. This disclosure merely refers to aligning the two objects such that the optical signal strikes a target. However, *Cummings* does not disclose receiving the reflection of the optical signal and adjusting the position of one of the apparatuses based upon the reflection, as called for by claims 1 and 26 of the present invention.

The disclosure of *Cummings* merely refers to aligning a beam of light onto a reflector to provide for targeting of x-ray beams. The reflection in *Cummings* is not used to adjust the

position, as called for by claim 1 of the present invention. Therefore, *Cummings* does not disclose all of the elements of claim 1 of the present invention. Further, claim 26, which calls for means for sending the optical signal and receiving a reflection and means for adjusting the position of one of the apparatuses is also not taught, disclosed or suggested for the reasons cited above. *Cummings* does not disclose using the reflection or adjusting the position of one of the apparatuses based upon the reflection. *Cummings* merely uses the light optical signal to align two objects for emission of radiant beams. Therefore, independent claims 1 and 26 of the present invention are allowable for at least the reasons cited herein. Additionally, dependent claims 2-5, which depend from independent claim 1, are also allowable for at least the reasons cited herein.

The Examiner rejected claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Cummings*, in view of U.S. Patent No. 4,690,556 (*Walker*). Applicant respectfully traverses this rejection.

Regarding claims 6-8, the Examiner added the disclosure of *Walker* to *Cummings* in order to argue obviousness of claims 6-8. Claim 6 calls for receiving the reflection upon a screen. Claim 7 calls for receiving the reflected signal based on a reflected angle. Claim 8 calls for adjusting the incident angle to change location on the screen upon which the reflected light is received. *Cummings* clearly does not disclose receiving the reflection on the screen, the reflected angle, or the incident angle called for by claims 6-8. The Examiner uses *Walker* to make up for the deficit of *Cummings*. However, the Examiner cites broad passages encompassing several columns in *Walker* to generally assert obviousness of the reflected and incident angles. Contrary to Examiner's position, Applicant respectfully asserts that the mere discussion of reflected and incident angles does not read upon or make obvious the use of such

angles in the context of claims 6-8. As described above, *Cummings* does not disclose adjusting the position of an apparatus based upon the reflection. *Walker* does not make up for this deficit.

Walker merely discloses providing a collimated light through the bore of a cylinder to examine the straightness of the cylinder bore. In this narrow context, *Walker* discloses several angular positions, such as a minus 45° position, a plus 45° degree position, etc., relating to the ring of the cylinder. For example, *Walker* discloses that light beam falling on an arc on the left of the bore wall between a plus 45° and a minus 45° position produced one-half of the reflective light. However, the reflected angle and the incident angle called for by claim 6-8 is not made obvious by this disclosure. *Walker* simply does not make up for the deficit of *Cummings*. The angular position of *Walker* is misapplied by the Examiner. The angles cited by the Examiner does not read upon or make obvious use of the reflected angle or the incident angle of claims 6-8.

Additionally, without using improper hindsight reasoning, those skilled in the art would not combine the disclosure of *Walker* with *Cummings* to make obvious all of the elements of claims 6-8. As described above, *Cummings* merely disclosed using a light beam to align a radiant beam source to an object; in contrast, *Walker* is directed to using a light source to check the straightness of a cylinder bore. Those skilled in the art simply would not combine these two subject matters using improper hindsight. The Examiner does not point to evidence in the prior art that would motivate one skilled in the art to combine the subject matter of *Walker* and *Cummings* to make obvious all of the elements of claims 6-8. Additionally, even if *Walker* and *Cummings* were to be combined, as described above, all of the elements of claims 6-8 would not be taught, disclosed, or made obvious. Therefore, the Examiner failed in providing a *prima facie*

establishment of obviousness of claims 6-8 of the present invention. Accordingly, claims 6-8 of the present invention are allowable for at least the reasons cited herein.

The Examiner rejected claims 22 and 23 under 35 U.S.C. 103(a) as being unpatentable over *Walker*, in view of *Cummings*. Applicant respectfully traverses this rejection.

The Examiner combines the disclosure of *Walker* and *Cummings* to disclose a mirror affixed on the apparatus as well as a reflective material. However, as described above, *Cummings* does not disclose a light receiving unit to receive reflective light from a second apparatus and then using the reflective light to adjust the position of a first apparatus in relation to a second apparatus, as called for by claim 10, from which claims 22 and 23 directly or indirectly depend. *Cummings* merely illustrates a mirror and does not disclose a light receiving unit to receive the reflective light and adjusting the position of one of the apparatus. *Cummings* does not adjust the position of an apparatus based upon the reflected light. *Walker* does not make up for this deficit. *Walker* does not adjust the position of an apparatus either; it merely refers to checking the straightness of a cylindrical bore. Therefore, the combination of *Walker* and *Cummings* does not make obvious all of the elements of claims 22 and 23 of the present invention.

Additionally, as described above, those skilled in the art would not combine *Walker* and *Cummings* without using improper hindsight reasoning to make obvious all of the elements of claims 22 and 23. However, even if *Walker* and *Cummings* were combined, as described above, claims 22 and 23 are still not made obvious. The Examiner failed in providing a *prima facie* establishment of obviousness of claims 22 and 23 of the present invention. Accordingly, claims 22 and 23 are allowable for at least the reasons cited herein.

The Examiner rejected claim 18 under 35 U.S.C. 103(a) as being unpatentable over *Walker* in view of U.S. Patent No. 5,026,998 (*Hölzl*). Applicant respectfully traverses this rejection.

Claim 18 calls for the first apparatus being a testing device. The Examiner cites *Hölzl* in combination with *Walker* to make obvious the limitation of the apparatus being a testing device. However, as described above, *Walker* does not disclose an optical source directing an incident light from a first apparatus to a second apparatus and a light receiving unit to receive the reflective light used to adjust the position of the first apparatus (as called for by claim 10, from which claim 18 depends). As described above, *Walker* merely refers to checking the straightness of a cylindrical bore, wherein *Hölzl* merely refers to checking the coaxial alignment of tandem arranged shafts. *Hölzl* is directed to measuring the inline or an offset state of the shafts. However, the combination of *Hölzl* and *Walker* does not disclose or make obvious a light receiving unit being used to receive the reflective light which is used to adjust the positioning of a first apparatus, as called for by claim 18. In fact, neither *Walker* nor *Hölzl* discloses adjusting the position of a second apparatus. Therefore, merely adding the concept of testing device to the disclosure of *Walker* does not make obvious all of the elements of claim 18 of the present invention.

Further, those skilled in the art would not combine *Walker* and *Hölzl*. *Walker* is directed to checking the straightness of a cylindrical bore, whereas, *Hölzl* is directed to checking the coaxial alignment of tandem arranged shafts. Without using improper hindsight reasoning, there is no indication of evidence or arguments to support the assertion that those skilled in the art would combine *Walker* and *Hölzl* to read upon all of the elements of claim 18 of the present

invention. However, as described above, even if *Hölzl* and *Walker* were to be combined, all of the elements of claim 18 would not be taught, disclosed or suggested. Therefore, the Examiner failed in providing a *prima facie* establishment of obviousness of claim 18 of the present invention. Accordingly, claim 18 is allowable for at least the reasons cited herein.

The Examiner rejected claim 19 under 35 U.S.C. 103(a) as being unpatentable over *Walker* in view of *Holz* as applied to claim 18, and further in view of U.S. Patent No. 5,872,623 (*Stabile*). Applicant respectfully traverses this rejection.

Claim 19 calls for the testing device being either a photometer or a radiometer. The Examiner asserts *Stabile* make obvious the photometer and the radiometer of claim 19. The Examiner uses *Stabile* to make obvious the photometer and the radiometer by citing Figure 1B, reference 205. Figure 1B, reference 205 refers to a “planer substrate”. However, the object that the Examiner suggests is a photometer or a radiometer is actually a screening array. *Stabile* does not make obvious the photometer and the radiometer being a testing device, as called for by claim 19 of the present invention.

Additionally, all of the elements of the independent claim from which claim 19 indirectly depends are not disclosed by *Walker* or *Hölzl* as described above. Adding *Stabile* to this set of disclosures does not make up for the deficits of *Walker* and *Hölzl*. *Stabile* merely refers to measuring the amount of light emitted from a plurality of detection sites but does not call for the reflective light to provide for alignment, as called for by claim 19 of the present invention. Therefore, the combination of *Walker*, *Stabile* and *Hölzl* does not teach, disclose or suggest all of the elements of claim 19 of the present invention.

Additionally, those skilled without using improper hindsight, would not combine the disclosures of *Walker*, *Hölzl* and *Stabile* since they are directed to substantially different subject matters. *Walker* is directed to checking the straightness of a cylindrical bore, whereas, *Hölzl* is directed to checking the coaxial alignment of tandem arranged shafts. *Stabile* is directed to measuring the amount of light emitted from a plurality of detection sites. Therefore, without using improper hindsight reasoning, there is no indication of evidence or arguments to support the assertion that those skilled in the art would combine *Walker*, *Hölzl* and *Stabile* to read upon all of the elements of claim 19 of the present invention. However, as described above, even if *Walker*, *Hölzl* and *Stabile* were to be combined, all of the elements of claim 19 would not be taught, disclosed or suggested. Therefore, the Examiner failed in providing a *prima facie* establishment of obviousness of claim 19 of the present invention. Accordingly, claim 19 is allowable for at least the reasons cited herein.

The Examiner rejected claims 20 and 21 under 35 U.S.C. 103(a) as being unpatentable over *Walker* in view of U.S. Patent No. 4,225,241 (*Dankliker*). Applicant respectfully traverses this rejection.

Claims 20 refers to the second apparatus being a computer display device and claim 21 relates to the computer display device being an LCD screen. The Examiner adds the disclosure of *Dankliker*, which refers to an LCD. *Dankliker* refers to a collimated light beam being passed through transparent texture marking and adjusting the relative position of the planer transparent objects. However, neither *Walker* nor *Dankliker* calls for the alignment of an apparatus based upon the reflected light, as called for by claims 20 and 21.

Further, **Dankliker** and **Walker** are directed to diverse subject matter and those skilled in the art would not find motivation in the prior art to combine them without using improper hindsight to make obvious all the elements of claims 20 and 21. However, even when combined as described above, all of the elements of claims 20 and 21 would not be taught, disclosed or make obvious. Therefore, the Examiner failed in providing a *prima facie* establishment of obviousness of claims 20 and 21 of the present invention. Accordingly, claims 20 and 21 are allowable for at least the reasons cited herein.

The Examiner rejected claims 27-30 under 35 U.S.C. 103(a) as being unpatentable over **Cummings** in view of U.S. Patent No. 5,953,114 (**Spink**). Applicant respectfully traverses this rejection.

Independent claim 27 calls for an apparatus for position a first device in relation to a second device. The apparatus comprises an optical source affixed to the first device, which comprises a screen. The optical source provides an incident light directed towards a second device from which a reflected light is received on the screen. The apparatus then is capable of adjusting the relative position between the first and second devices based upon the angle of the reflective light. As described above, **Cummings** does not look to the angle or the reflective light in performing an adjustment of a position of a device. Additionally, adding the disclosure of **Spink** does not make up for the deficit of **Cummings**. **Spink** is directed to the laser beam being inserted in an insertion element. The magnification value is being measured to perform an assessment of an area being observed. This does not make up for the deficit of **Cummings**. There is no disclosure in **Cummings**, **Spink**, or their combination that relates to adjusting an apparatus based upon the reflective light and its angle.

Further, the disclosure of *Spink* and *Cummings* disclosures are directed to vastly different subject matter. *Cummings* is directed to using a light beam to align an object for performing a radiant signal emission. In contrast, *Spink* is directed to sensing the magnification value to make an assessment of an area being observed. Those skilled in the art would not combine these two diverse subject matters or find motivation to combine them to read upon or make obvious all of the elements of claim 27 of the present invention. However, even if combined, as described above, all of the elements of claim 27 of the present invention would not be made obvious by the combination of *Cummings* and *Spink*. Therefore, claim 27 of the present invention is allowable for at least the reasons cited herein. Further, claims 28-30, which depend from claim 27, are also allowable for at least the reasons cited herein. Therefore, the Examiner failed in providing a *prima facie* establishment of obviousness of claims 27-30 of the present invention. Accordingly, claims 27-30 are allowable for at least the reasons cited herein.

The Examiner rejected claims 35 and 36 under 35 U.S.C. 103(a) as being unpatentable over *Cummings* in view of *Spink* as applied to claim 27, and further in view of *Holz* and U.S. Patent No. 5,872,623 (*Stabile*). Applicant respectfully traverses this rejection.

Claim 35 relates to the first device being either testing device. Claim 36 relates to the first device being either a photometer or a radiometer. As described above, adding *Stabile* to read upon the testing device and the testing device being either a photometer or a radiometer, is a misapplication of the prior art. As described above, *Cummings* and *Spink* do not teach all of the elements of the underlying independent claim (claim 27) from which claims 35 and 36 depend. There is no disclosure in *Cummings*, *Spink*, or their combination that relates to adjusting an apparatus based upon the reflective light and its angle. Adding the disclosure of *Hölzl* and

Stabile does not cause the obviousness of one of the devices being a testing device or the testing device being either a photometer or a radiometer. In fact, as described above, *Stabile* does not disclose a photometer or radiometer; it merely discloses a screening array. Therefore, even when combined, *Cummings*, *Spink*, *Hölzl* and *Stabile* do not disclose all of the elements of claims 35 and 36 of the present invention. Further, as described above, those skilled in the art would not combine *Cummings*, *Spink*, *Hölzl* and *Stabile* to make obvious all of the elements of claims 35 and 36 of the present invention. Therefore, the Examiner failed in providing a *prima facie* establishment of obviousness of claims 35 and 36 of the present invention. Accordingly, claims 35 and 36 are allowable for at least the reasons cited herein.

The Examiner rejected claims 37-39 under 35 U.S.C. 103(a) as being unpatentable over *Cummings* in view of *Spink* as applied to claim 27 and further in view of *Dankliker*. Applicant respectfully traverses this rejection.

Claims 37-39 call for the second device being a computer display or a television display, or the computer display being an LCD screen. As described above, *Cummings* and *Spink* do not disclose or make obvious all of the elements of the underlying independent claim 27, from which claim 37-39 depend. There is no disclosure in *Cummings*, *Spink*, or their combination that relates to adjusting an apparatus based upon the reflective light and its angle. Adding the disclosure of *Dankliker* does not make up for this deficit.

Adding *Dankliker* to *Cummings* and *Spink* simply does not make obvious all of the elements of claims 37-39. *Dankliker* merely refers to a collimated light beam being passed through transparent texture marking and adjusting the relative position of the planer transparent objects, and therefore does not make up for the deficits of *Cummings* and *Spink*.

Further, those skilled in the art, as described above, would not combine *Cummings*, *Spink* or *Dankliker*, or find motivation to combine them to make obvious all of the elements of claims 37-39. Therefore, the Examiner failed in providing a *prima facie* establishment of obviousness of claims 37-39 of the present invention. Accordingly, claims 37-39 are allowable for at least the reasons cited herein.

The Examiner rejected claims 40, 44 and 45 under 35 U.S.C. 103(a) as being unpatentable over *Cummings* in view of *Holz* and *Dankliker*. Applicant respectfully traverses this rejection.

Claim 40 calls for a system that comprises a test unit to test a computer display and an optical source affixed to the testing unit for directing an incident light to the computer display. Claim 40 also calls for a light receiving unit to receive reflective light from the computer display and the reflective light being used to adjust the position of the testing unit in relation to the computer display. As described above, *Cummings* and *Hölzl* do not disclose adjusting the position of an apparatus based upon the reflective light. *Cummings* is directed to using a light beam to align an object for performing a radiant signal emission. *Hölzl* is directed to checking the coaxial alignment of tandem arranged shafts. Their combination does not make obvious all of the elements of claim 40. *Dankliker* does not make up for this deficit.

Dankliker merely refers to collimated light being passed through transparent texture markings and adjusting the planar transparent objects. Therefore, *Dankliker*, *Cummings*, nor *Hölzl* disclose or make obvious the testing unit using an optical source to align the optical source to a computer display based a reflected light provided by an optical source, as called for by claim 40. The testing unit disclosure does not make up for the lack of disclosure in using the reflective

light to perform the alignment adjustment of positions of an apparatus, as called for by claim 40 of the present invention.

Further, as described above, those skilled in the art would not combine *Cummings*, *Hölzl* and *Dankliker* for at least the reasons cited herein. However, even if they were combined all of the elements of claim 40 of the present invention are not made obvious. Further, claims 44 and 45 which depend from claim 40 are also allowable for at least the reasons cited herein. Therefore, the Examiner failed in providing a *prima facie* establishment of obviousness of claims 40, 44, and 45 of the present invention. Accordingly, claims 40, 44, and 45 are allowable for at least the reasons cited herein.

The Examiner rejected claims 41 and 42 under 35 U.S.C. 103(a) as being unpatentable over *Cummings* in view of *Holz* and *Dankliker* as applied to claim 40, and further in view of *Walker*. Applicant respectfully traverses this rejection.

The Examiner adds the disclosure of *Cummings*, *Hölzl* and *Dankliker* to read upon the screen and the plurality of markings of claims 41 and 42 of the present invention. However, as described above, simply adding the screen provided by *Walker* to the disclosure of *Cummings*, *Hölzl* and *Dankliker* does not disclose or make obvious all of the underlying elements of claim 40, from which claims 41 and 42 depend. *Cummings* is directed to using a light beam to align an object for performing a radiant signal emission. *Hölzl* is directed to checking the coaxial alignment of tandem arranged shafts. *Dankliker* merely refers to collimated light being passed through transparent texture markings and adjusting the planer transparent objects. Their combination does not make obvious all of the elements of claim 40. *Walker* does not make up for this deficit. *Walker* is directed to using a light source to check the straightness of a cylinder

bore. Their combination does not make obvious all of the elements of claim 40, which calls for a light receiving unit to receive reflective light from the computer display and the reflective light being used to adjust the position of the testing unit in relation to the computer display. Since claims 41 and 42 depend from claim 40, the combination of *Cummings*, *Hölzl*, *Dankliker*, and *Walker* does not make obvious all of the elements of claims 41 and 42.

Further, the Examiner offers no evidence that it would be obvious to place a plurality of markings on the screen to depend. Further, the Examiner offers no evidence that it would be obvious to place a plurality of markings on the screen. However, even merely adding the screen disclosure of *Walker* would not disclose or make obvious all of the elements of claim 40 as described above. Therefore, claims 41 and 42 of the present invention are allowable.

Additionally, as described above, those skilled in the art would not be motivated to combine the diverse subject matter of *Cummings*, *Hölzl*, *Dankliker* and *Walker* to read upon or make obvious all of the elements of claims 41 and 42. However, if these prior art disclosures were combined; all of the elements of claims 41 and 42 would not be taught, disclosed or suggested. Therefore, the Examiner failed in providing a *prima facie* establishment of obviousness of claims 41 and 42 of the present invention. Accordingly, claims 41 and 42 are allowable for at least the reasons cited herein.

The Examiner rejected claim 43 under 35 U.S.C. 103(a) as being unpatentable over *Cummings* in view of *Holz* and *Dankliker* as applied to claim 40, and further in view of *Stabile*. Applicant respectfully traverses this rejection.

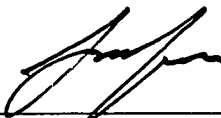
The Examiner adds the disclosure of *Stabile* to *Cummings*, *Holz*, and *Dankliker* in order to read upon the photometer and the radiometer of claim 43. As described above, *Stabile* does not disclose a photometer or a radiometer. Further, adding the disclosure of *Stabile* to the disclosure of *Cummings*, *Hölzl* and *Dankliker* would not read upon the reminder of the elements of claim 43, which depends from independent claim 43. *Cummings* is directed to using a light beam to align an object for performing a radiant signal emission. *Hölzl* is directed to checking the coaxial alignment of tandem arranged shafts. *Dankliker* merely refers to collimated light being passed through transparent texture markings and adjusting the planer transparent objects. Their combination does not make obvious all of the elements of claim 40, from which claim 43 depends. *Stabile* does not make up for this deficit. *Stabile* merely refers to measuring the amount of light emitted from a plurality of detection sites but does not call for the reflective light to provide for alignment. Therefore, combining *Stabile* would not make obvious all of the elements of claim 43.

Further, as described above, those skilled in the art would not be motivated to combine *Cummings*, *Hölzl*, *Dankliker* and *Stabile*, which all contain diverse subject matter. Therefore, it would be improper hindsight reasoning to combine them to make obvious all of the elements of claim 43. However, even if these prior art disclosures were combined, as described above, all of the elements of claim 43 would not be taught, disclosed or suggested. Therefore, the Examiner failed in providing a *prima facie* establishment of obviousness of claim 43 of the present invention. Accordingly, claim 43 is allowable for at least the reasons cited herein.

Reconsideration of the present application is respectfully requested.

In light of the arguments presented above, Applicants respectfully assert that claims 1-8, 10-13, 18-21, 22, 23, 26, 27-30 and 35-45 are allowable. In light of the arguments presented above, a Notice of Allowance is respectfully solicited.

If for any reason the Examiner finds the application other than in condition for allowance, **the Examiner is requested to call the undersigned attorney at the Houston, Texas telephone number (713) 934-4069** to discuss the steps necessary for placing the application in condition for allowance.

<p>Date: <u>January 3, 2006</u></p>	<p>Respectfully submitted,</p> <p>WILLIAMS, MORGAN & AMERSON, P.C. CUSTOMER NO. 23720</p> <p>By: </p> <p>Jaison C. John, Reg. 50,737 10333 Richmond, Suite 1100 Houston, Texas 77042 (713) 934-4069 (713) 934-7011 (facsimile) ATTORNEY FOR APPLICANT(S)</p>
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